THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.26776 OF 2005

DATED:6.1.2006

Between:

Y. Guramma

…Petitioner

And

The Panchayat Secretary

Diguva Veedhi Gram Panchayat

Srikalahasthi Mandal, Chittoor Dist.

and another

…Respondents

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ORDER:

The petitioner is resident of Diguva Veedhi Village of Srikalahasthi Mandal, Chittoor District. Her husband was owner of lands admeasuring Acs.1.88 in S.No.182/14, Acs.0.24 in S.No.182/16 and Acs.0.58 in S.No.183/4 of the said village. He was also statedly issued pattadar pass books by the Mandal Revenue Officer, Srikalahasthi. After death of her husband, she along with her children succeeded to the property. She further alleges that the land in S.Nos.183/4 and 182/16 is contiguous separated by a small ridge on the western side of the road in S.No.183/4. The ridge is government poramboke and there is small pathway to approach the land situated on the southern-side of land in S.Nos.183/4 and 182/16 forming part of the ridge and therefore the respondents have no power or authority to take control and lay the road

thereon by usurping the Government land. The petitioner therefore filed the instant Writ Petition seeking *inter alia* a direction to the respondents to desist from laying the road.

The learned counsel for the petitioner submits that the land in S.Nos.183/4 and 182/16 is Government poramboke land and therefore the Gram Panchayat cannot lay road only to help third parties. The petitioner contends that under the provisions of the A.P.Panchayat Raj Act, 1994 (PR Act), the Gram Panchayat has no jurisdiction to deal with the lands vested in Government.

Opposing the Writ Petition, learned Standing Counsel for Gram Panchayats submits that the Gram Panchayat is strengthening the existing pathway situated at southern side of the land in S.Nos.183/4 and 182/16 and that the Gram Panchayat is not causing any harm to the lands of the petitioner in any manner. He, however, does not dispute that if there is any need for acquiring the land of the petitioner for laying road, necessary procedure under the Land Acquisition Act, 1894 (LA Act) will be followed.

Section 53 of the PR Act is to the effect that all public roads in any village, other than National Highways, State Highways and roads vesting in Zilla Parishad or Mandal Parishad vest in the Gram Panchayat together with all pavements, stones and other materials thereof. Under Section 2(33) of the PR Act, 'public road' means any street, road, square, court, alley, passage or riding-path over which the public have a right of way whether a thoroughfare or not. The inclusive part of the definition further lays down that road way over any public bridge or cause way, the footway attached to any such road, public bridge or cause-way and the drains attached to any such road, public bridge or cause-way are come under public road. In this case, we are concerned with a pathway within the local territorial limits of the Gram Panchayat. Reading Section 53, and Section 2(33) of the PR Act together, it becomes clear that the land/ridge on the southern side of land in S.Nos.183/4 and 182/16 is a public road vested in Gram Panchayat. If Gram Panchayat takes up any work for strengthening existing pathway, the petitioner cannot have any grievance about the same. The submission is misconceived. However, if any part of the petitioner's land in S.Nos.182/14, 182/16 and 183/4 is required for widening the existing pathway/ridge, it shall be open to the respondents to take appropriate action for acquiring the land in accordance with law. In this Writ Petition no relief can be granted to the petitioner.

The Writ Petition with the above observations is accordingly dismissed.

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(V.V.S.RAO, J)

6.1.2006

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